THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 21976 OF 2000

Dated 19th September, 2007

Between:

K.Vaman Rao

…Petitioner

And

The Executive Engineer,
A.P.Housing Board, Warangal,
Warangal District and another.

…Respondents.

ORAL ORDER:

In this writ petition, the petitioner seeks a declaration that the action of the first respondent in not allotting and putting the petitioner in possession of MIG-I, H.No.14 at Karimanagar, Phase-I as illegal and arbitrary.

The Andhra Pradesh Housing Board, a body constituted under the provisions of the A.P.Housing Board Act, constructed houses in different phases in Karimnagar District at Karimnagar. The petitioner was allotted house bearing No.MIG-I-14 in Phase-II of Karimnagar. Though he paid 30% of the estimated cost as initial amount, which was required to be deposited, but he failed to take possession of the house by executing an agreement on Hire-cum-Sale basis as required by the regulations. As such, the allotment said house was cancelled and the same was notified afresh as per the regulations and was sold to one Smt.Sunanda subsequently and she was inducted into possession.

It is the case of the petitioner that after allotment, there was no notice with regard to cancellation of the allotment in his favour and further, though as per letter No. 231 MIG.II/E5/2000, dated 9.5.2000 issued by the Executive Engineer (Housing), A.P. Housing Board, he had applied for allotment of MIG.II, House No.231, but the same was also not allotted. It is his further case that as much as he has already paid initial earnest money deposit and 30% of the cost price of the house and in absence of issuance of any notice and serving cancellation orders, he is entitled for allotment of the very house i.e. MIG-I-14 of Karimnagar. It is also the case of the petitioner that in any event, respondents ought to have considered the allotment of MIG-II-231 for which he has applied pursuant to letter of the Executive Engineer, dated 9.5.2000.

After cancellation of the allotment of House bearing No.MIG-I-14, as the petitioner had applied for the house bearing MIG-II-231, this court by way of interim order dated 22.11.2000 directed not to sell the same in favour of any third party.

In the counter affidavit filed on behalf of the respondent-Board, it is stated that having paid 30% of the estimated cost, the petitioner failed to take possession for six long years and did not enter into Hire-cum-Sale agreement. It is stated that after about six years, for the first time, he made a representation on 11.4.2000 for taking possession of the house. But, however, he was informed by letter dated 9.5.2000 that the allotment in his favour was cancelled. It is also stated that after cancellation of allotment as per the regulations framed under the A.P.Housing Board Act, fresh applications were called for allotment on First Come First Served basis and allotment was made in favour of Smt.Sunanda who applied for allotment of MIG-I-14 along with 40% of the cost and the same was approved by the competent authority i.e. the Vice-Chairman and Housing Commissioner on 1.3.2000 and allotment was made to her and physical possession of the said house was handed-over to her on 4.4.2000 as per the Housing Board Allotment Regulations, 1956.

Though it is the case of the petitioner that he was not given any notice at any point of time, but, however, for many years, he did not move in the matter at all. Even in the present writ petition, the petitioner has not questioned the orders of cancellation of allotment of House bearing No.MIG-I-14. In spite of specific stand of the respondents in the counter affidavit that the allotment made in favour of the petitioner was cancelled, no steps have been taken either to question the same or to implead the subsequent allottee as a party respondent in the writ petition. As much as consequent to cancellation of allotment in favour of the petitioner, it is stated that fresh applications were called for allotment on First Come First Serve basis and the said house was allotted in favour of one Smt.Sunanda, any direction in this writ petition will affect the

interests of third party who is not impleaded as a party respondent. As such, no direction can be given for giving possession of MIG-I-14 as claimed by the petitioner.

Even with regard to allotment of MIG-II-231, though the petitioner had initially applied pursuant to letter dated 9.5.2000 issued by the Executive Engineer, A.P.Housing Board, but, however, learned Standing Counsel appearing for the respondent-Board has produced letter dated 8.2.2001 addressed by the petitioner withdrawing his claim for allotment of MIG-II-231 and requesting for refund of the deposits he has made. Accordingly, the deposited amount for considering the allotment of MIG-II-231 was refunded vide Memo dated 20.2.2001. In that view of the matter, no direction can be given to consider the allotment of MIG-II-231 as much as the petitioner himself withdrew his request for allotment of the said house. However, if the petitioner makes an application for refund of the deposits he made, the respondents shall consider the same in accordance with the regulations existed then and pass appropriate orders.

Subject to above observation, the writ petition is dismissed. No costs.

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19-9-2007 **R.SUBHASH REDDY, J.**

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